

BARCLAY DAMON ^{LLP}

Michael A. Oropallo
Partner

May 24, 2018

VIA ELECTRONIC MAIL
CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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New York, NY 10007-1866

Melva J. Hayden, Esq.
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U.S. Environmental Protection Agency - Region 2
290 Broadway - 16th Floor
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Re: Lansing Rod and Gun Club - Request for Extension of Deadline under
Administrative Order on Consent (Docket No. RCRA-02-2016-7301)

Dear Mr. Guster and Ms. Hayden:

As you know, Barclay Damon LLP represents the Lansing Rod and Gun Club (“Club”) in connection with the above-referenced Administrative Order on Consent (“Consent Order”). This letter follows our conversation on May 10, 2018 during which you directed us to submit a written request to the U.S. Environmental Protection Agency (“USEPA”) for an extension of the deadlines under the Consent Order, based on the Club’s good faith, diligent efforts to obtain the necessary local approvals to reconfigure the shooting ranges on the Club’s property away from Salmon Creek and adjacent wetlands.

We therefore respectfully submit this letter as a formal request under Paragraph 60 of the Consent Order to amend the deadline under Paragraph 27(c) of the Consent Order for the implementation of the Club’s USEPA-approved Environmental Stewardship Plan for Management of Lead/Bullets (“Plan”). We ask that the deadline be extended until the Club has obtained the approval and authorization from the Town of Lansing (“Town”) (pursuant to the Club’s various requests for approval and as mandated by the Town). In the event a specific date is necessary, we respectfully request December 31, 2018, as it will take approximately sixty days to implement the planned reconfiguration of the shooting fields.

As required by Paragraph 60, there is “good cause” for amending the current deadline, which was on or about April 9, 2018, because unforeseeable events outside of the Club’s control necessitated the abandonment of the original plan to install “shot curtains,” and the Club’s diligence in pursuing approvals from the Town (as it demanded) for the reconfiguration of Shooting Fields 1 and 2 from their current location to an area where neither Salmon Creek nor any wetlands would be impacted. Further, the Club’s efforts have been further impeded by public opposition, even though the reconfiguration is the best available alternative for eliminating any impact on Salmon Creek or any adjacent wetlands from lead shot.

Indeed, the Club’s good faith efforts to complete the relocation of the ranges under the Plan have been impacted by natural disasters and local approval delays—both of which are beyond the Club’s control. In early 2017, after the USEPA approved the Plan, the Club assessed its options and at that time believed that shot curtains would be a more feasible option than range relocation. However, in July 2017, unprecedented rainfall caused flooding and erosion that impacted the ranges on the Club’s property and caused the Club to reconsider whether it should invest in shot curtains for ranges that would be susceptible should future flooding events occur. The Club also took a new look at the relocation option (one previously suggested by staff at USEPA) and determined a relocation was in fact feasible.

In a July 20, 2017 e-mail to Ms. Hayden, I informed the USEPA that I had recently learned of the flooding and that the Club had been exploring the possibility of reconfiguring the entire property with the Town. I sent this e-mail as soon as I learned from the Club that the flooding had occurred and it was reassessing its options. At the time, the Club was still confident that, if necessary, it could obtain local approval from the Town and reconfigure the ranges prior to the 18-month deadline in the Consent Order as the proposed reconfiguration was not a change in the Club’s use of the property, and in fact the area where the shooting range was proposed to be relocated is currently used by the Club as a rifle/pistol range. Therefore, the Club thought that any approval process would be swift and uncomplicated.

Unfortunately, the Club’s good faith efforts to obtain timely local approvals have been hampered by confusion among Town officials regarding which procedures and approvals apply and has necessitated multiple meetings, public hearings, and adjournments.

The Club was initially informed by the Town that relocation of the ranges would require Site Plan approval and a Special Use Permit. The Club submitted an application for Site Plan approval in December 2017, well before the Consent Order deadline. However, after discussions between Barclay Damon and the Town’s attorney, and although a definite answer has not been forthcoming, it appears that to the extent any approvals are required, the appropriate legal path is through the Zoning Board of Appeals.

Currently, the Club is waiting for the Codes Officer to issue a formal opinion. Once that opinion is issued, the Club should be able to conclude the approvals process and commence the relocation of the ranges. Ultimately, the Club wants to: a) swap its trap range and rifle/pistol range locations, so that lead shot from trap shooting is directed away from the creek and

wetlands, and the rifle and pistol targets will be oriented so as to prevent lead deposition in the creek (the Club currently uses NRA recommended “bullet traps”); b) build one new 10x20 foot warming hut on the far side of the creek; c) build two new partially buried trap houses on the far side of the creek; d) relocate a 6-car parking lot to the far side of the creek; e) possibly build a bridge across the creek to access the relocated trap range; and f) plant trees and bushes at key points to enhance vegetative screening of the Club from certain adjacent properties.

In the meantime, and in addition to the time and expense (costs, legal and consulting fees) in diligently seeking approval from the Town, the Club has increased the use of Field No. 2 whenever possible, and remains committed to the planned relocation. Any assistance that USEPA can provide in terms of public outreach/relations would be appreciated, as the relocation/reconfiguration is a win-win for everyone. It just seems that certain members of the public want nothing other than to shut the Club (and its long-time community and conservation efforts) down.

Nevertheless, the Club has and will continue to seek the public’s involvement to the maximum extent practicable and work with the USEPA to encourage public input. The Club is already an active member of the local community and hosts numerous events and fundraisers each year. However, the Club understands that outreach regarding its specific plans is needed particularly given the sensitivity in the larger community regarding lead concerns. Accordingly, the Club will coordinate with the USEPA’s Public Affairs Division to set up two informational meetings for the public to learn about the Club’s reconfiguration plans and lead reclamation, as well as the Club’s role in promoting environmental conservation and stewardship. We hope to impress upon the public that a reconfiguration of the shooting fields as part of the Club’s overall Plan is in the best interests of everyone.

Not only does the Club have a history of cooperation with the USEPA, from its initial response to USEPA’s information request and execution of the Consent Order through the present day, it has also worked in good faith to meet the deadlines in the Consent Order. Indeed, despite its limited funding, the Club retained a professional to develop a comprehensive Plan to reconfigure the shooting ranges on the its property and manage lead shot so that the Club’s activities do not impact Salmon Creek or adjacent wetlands. The Club continues to proceed in good faith to obtain the necessary local approvals to complete the range relocation. The Club’s ongoing efforts are consistent with its mission to promote conservation and environmental stewardship—a mission it shares with the USEPA.

Based on the foregoing, we respectfully submit that there is good cause for an extension of the implementation deadline in Paragraph 27(c) of the Consent Order until December 31, 2018.

Thank you for your consideration, and please do not hesitate to contact me if you have any questions regarding this request.

Edward J. Guster
Melva J. Hayden, Esq.
May 24, 2018
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Very truly yours,

A handwritten signature in black ink, appearing to read 'M. Oropallo', with a long horizontal flourish extending to the right.

Michael A. Oropallo

MAO:tjp

cc: Scott Hicks, Lansing Rod and Gun Club